

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

IN RE:

PDG PRESTIGE INC.,
Debtor.

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Case No. 21-30107

OBJECTION TO CLAIM # 9 OF CITY BAY CAPITAL LLC, WITH NOTICE THEREOF

THIS IS AN OBJECTION TO YOUR CLAIM IN THIS BANKRUPTCY CASE. THIS OBJECTION ASKS THE COURT TO DISALLOW (ELIMINATE), REDUCE, OR MODIFY YOUR CLAIM AS SET FORTH IN THIS OBJECTION. IF YOU DO NOT FILE A WRITTEN RESPONSE TO THIS OBJECTION WITHIN 30 DAYS FROM THE DATE OF MAILING OF THIS OBJECTION, THE COURT MAY DISALLOW (ELIMINATE), REDUCE, OR MODIFY YOUR CLAIM AS SET FORTH IN THIS OBJECTION, WITHOUT A HEARING BEING HELD.

ANY RESPONSE TO THIS OBJECTION MUST EXPLAIN YOUR POSITION AND BE TIMELY FILED WITH THE UNITED STATES BANKRUPTCY CLERK, WESTERN DISTRICT OF TEXAS, R.E. THOMASON FEDERAL BUILDING AND UNITED STATES COURTHOUSE, 511 E. SAN ANTONIO AVE., ROOM 444, EL PASO, TEXAS 79901. IF A TIMELY RESPONSE IS FILED, THE COURT WILL THEN SET A HEARING ON THE OBJECTION AND YOU WILL BE PROVIDED WITH NOTICE OF THE DATE, TIME, AND PLACE OF THE HEARING. IF YOU DO NOT ATTEND THE HEARING, THE COURT MAY DECIDE THAT YOU DO NOT OPPOSE THE OBJECTION TO YOUR CLAIM.

TO THE HONORABLE H. CHRISTOPHER MOTT, U.S. BANKRUPTCY JUDGE:

PDG PRESTIGE INC., debtor and debtor in possession (the “Debtor” or “PDG-P”), files this *Objection to Claim* and in support thereof would show to the Court the following.

I. Background Information

1. Debtor filed for relief under Chapter 11 of the Bankruptcy Code on February 15, 2021.
2. On June 10, 2021, City Bay Capital LLC (“Claimant”) filed its Proof of Claim No. 9 in the amount of Thirty Two Thousand Two Hundred Fifty and No/100 Dollars (\$32,250.00) for the “non-occurrence of the acquisition of Property and delivery of Loan Terms to Michael Dixson” (the “Claim”).
3. Attached thereto as Exhibit “A” is a Mortgage Brokerage Agreement executed by Michael Zysman on behalf of Claimant, and Michael Dixson on behalf of himself, his “subsidiaries and affiliates, PDG, Inc., and the Project.”

II. Objection

4. Pursuant to 11 U.S.C. §502(a), a “party in interest” may object to a proof of claim filed by a creditor. Debtor, as the entity directly affected by the determinations made in these proceedings, has standing to, and hereby does file an objection to the Claim.

5. As is evident on the face of the Claim, PDG-P is not a party to the Mortgage Brokerage Agreement therein. PDG, Inc. is a New Mexico corporation and is an entity separate from PDG-P which is a Texas corporation.

6. The Claim should accordingly be disallowed against PDG-P in the bankruptcy case, as Claimant is not in privity with the Debtor and otherwise has no agreement or other relationship with the Debtor or the property of the estate. *See* 11 U.S.C. §502(b).

7. A proposed form of order is submitted with this Objection and is incorporated by reference herein.

WHEREFORE, PDG PRESTIGE INC., debtor and debtor in possession, respectfully requests that the Court disallow Claim No. 9 filed by City Bay Capital LLC, and for such other and further relief to which movant is entitled at law or in equity.

Dated: December 10, 2021

Respectfully submitted:

WEYCER, KAPLAN, PULASKI & ZUBER, P.C.

By: /s/ Jeff Carruth
JEFF CARRUTH (TX SBN: 24001846)
3030 Matlock Rd., Suite 201
Arlington, Texas 76105
Telephone: (713) 341-1158
Fax: (866) 666-5322
E-mail: jcarruth@wkpz.com

ATTORNEYS FOR
PDG PRESTIGE INC.,
DEBTOR AND DEBTOR IN POSSESSION

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served on December 10, 2021 (1) by electronic notice to all ECF users who have appeared in this case to date (2) by regular mail to all parties appearing in the attached address list (i.e. mailing matrix) obtained from the Court’s PACER facility, as set forth in the attached lists.

/s/ Jeff Carruth
JEFF CARRUTH

21-30107-hcm Notice will be electronically mailed to: (DUPLICATES DELETED)

James W. Brewer on behalf of Creditor New Mexico Real Estate Advisors, Inc. d/b/a Colliers International

jbrewer@kempsmith.com, tschoemer@kempsmith.com

Jeff Carruth on behalf of Debtor PDG Prestige, Inc.

jcarruth@wkpz.com, jcarruth@aol.com; ATTY_CARRUTH@trustesolutions.com

Harrel L. Davis, III on behalf of Creditor Suresh Kumar

hdavis@eplawyers.com, vrust@eplawyers.com; vpena@eplawyers.com

James Michael Feuille on behalf of Creditor Dennis Crimmins

jfeu@scotthulse.com, tmarr@scotthulse.com

David P. Lutz on behalf of Debtor PDG Prestige, Inc.

dplutz@qwestoffice.net

David P. Lutz on behalf of Defendant PDG Prestige, Inc.

dplutz@qwestoffice.net

Michael R. Nevarez on behalf of Interested Party Westar Investors Group, LLC

MNevarez@LawOfficesMRN.com, MRN4Bankruptcy@gmail.com

Brad W. Odell on behalf of Creditor City bank

bodell@mhba.com, memert@mhba.com; mreynolds@mhba.com; bwodellscvtxw@ecf.axosfs.com

Clyde A. Pine, Jr. on behalf of Creditor HD Lending, LLC

pine@mgmsg.com, clyde.pine@gmail.com

James W Rose, Jr on behalf of U.S. Trustee United States Trustee - EP12

james.rose@usdoj.gov,

brian.r.henault@usdoj.gov; carey.a.tompkins@usdoj.gov; Roxana.peterson@usdoj.gov; aubrey.thomas@usdoj.gov

Donald P. Stecker on behalf of Creditor City Of El Paso

don.stecker@lgbs.com

Casey Scott Stevenson on behalf of Plaintiff Dennis Crimmins

cste@scotthulse.com, svarr@scotthulse.com

United States Trustee - EP12

USTPRegion07.SN.ECF@usdoj.gov

Benjamin Joelson/David Parham

Benjamin.joelson@akerman.com / David.parham@akerman.com

City Bay Capital

Label Matrix for local noticing 0542-3 Case 21-30107-hcm Western District of Texas El Paso Fri Dec 10 10:44:28 CST 2021	PDG Prestige, Inc. 780 N Resler Drive, Suite B El Paso, TX 79912-7196	U.S. BANKRUPTCY COURT 511 E. San Antonio Ave., Rm. 444 EL PASO, TX 79901-2417
City Bank c/o Brad W. Odell Mullin Hoard and Brown, LLP P.O. Box 2585 Lubbock, Texas 79408-2585	City Bay Capital LLC Benjamin Joelson, Esq. Akerman LLP 1251 Avenue of the Americas, 37th Floor New York, NY 10020-1104	City of El Paso c/o Don Stecker 112 E. Pecan St. Suite 2200 San Antonio, TX 78205-1588
CityBank c/o Brad O'Dell Mullin Hoard Brown 1500 Broadway St #700 Lubbock, TX 79401-3169	Comptroller of Public Accounts C/O Office of the Attorney General Bankruptcy - Collections Division MC-008 PO Box 12548 Austin TX 78711-2548	DENNIS CRIMMINS c/o CASEY S STEVENSON & JAMES M FEUILLE SCOTT HULSE PC PO BOX 99123 EL PASO TX 79999-9123
Dennis Crimmins c/o Casey S. Stevenson Scott Hulse 201 East Main Drive #1100 El Paso, TX 79901-1340	Dona Ana County Treasurer 845 N Motel Blvd. Las Cruces, TX 88007-8100	Gallardo 2701 W Picacho Ave, Ste 6 Las Cruces, NM 88007-4732
HD Lending, LLC c/o Clyde A. Pine, Jr. Mounce, Green, Myers P.O. Box 1977 El Paso, Texas 79999-1977	Internal Revenue Service Special Procedures Staff - Insolvency P. O. Box 7346 Philadelphia, PA 19101-7346	Michael Dixon 780 N. Resler Drive Suite B El Paso, TX 79912-7196
New Mexico Real Estate Advisors Inc d/b/ 5051 Journal Center Boulevard NE Suite 200 Albuquerque, NM 87109-5914	New Mexico Real Estate Advisors, Inc. d/b/a Colliers International c/o Kemp Smith LLP Attn: James W. Brewer 221 N. Kansas, Ste. 1700 El Paso, TX 79901-1401	PDG Inc. 780 N. Resler Drive Suite B El Paso, TX 79912-7196
Springer Management c/o Tom Springer 500 S. Telshor Blvd. Las Cruces, TX 88011-4613	Suresh Kumar c/o Harrel Davis 4695 North Mesa El Paso, TX 79912-6150	Suresh Kumar c/o Harrel L. Davis P.O. Box 1322 El Paso, TX 79947-1322
TEXAS WORKFORCE COMMISSION OFFICE OF ATTORNEY GENERAL-BankruptcyCo PO BOX 12548 - MC-008 AUSTIN, TX 78711-2548	United States Trustee - EP12 U.S. Trustee's Office 615 E. Houston, Suite 533 P.O. Box 1539 San Antonio, TX 78295-1539	Westar Investors Group LLC c/o Michael R. Nevarez The Nevarez Law Firm, P.C. P.O. Box 12247 El Paso, TX 79913-0247
Jeff Carruth Weycer Kaplan Pulaski & Zuber, P.C. 24 Greenway Plaza, #2050 Houston, TX 77046-2445	Jeff Carruth Weycer, Kaplan, Pulaski & Zuber, P.C. 3030 Matlock Rd. Suite 201 Arlington, TX 76015-2936	

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(d) TEXAS WORKFORCE COMMISSION OFFICE OF ATTORNEY GENERAL-BankruptcyCo PO BOX 12548 - MC-008 AUSTIN, TX 78711-2548	End of Label Matrix Mailable recipients 25 Bypassed recipients 1 Total 26
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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

IN RE:

PDG PRESTIGE INC.,

Debtor.

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Case No. 21-30107

**ORDER GRANTING OBJECTION TO CLAIM # 9 OF CITY BAY
CAPITAL LLC, WITH NOTICE THEREOF**

On this day, came on for consideration the above-captioned objection to claim (the “Objection”) filed herein on December 10, 2021 by PDG PRESTIGE INC., debtor and debtor-in-possession (“PDG-P” or the “Debtor”). The Court finds and concludes that the Motion contained the appropriate notices under the Bankruptcy Local Rules; according to the certificate of service attached to the Motion, the Motion was served upon the parties entitled to receive notice under the Bankruptcy Local Rules; no party in interest filed a response or objection to the Motion or any such response or objection is overruled by this Order; and that upon review of the record of this case and with respect to the Motion that cause exists to grant the relief requested therein.

IT IS THEREFORE ORDERED THAT Claim No. 9 filed by City Bay Capital LLC is disallowed.

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